United Nations A/AC.109/2008/SR.9

General Assembly

Distr.: General
25 July 2008

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Summary record of the 9th meeting
Held at Headquarters, New York, on Wednesday, 18 June 2008, at 11 a.m.

Chairman: Mr. Okio (Vice-Chairman) ..... (Congo)

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08-39410 (E)

In the absence of Mr. Natalegawa (Indonesia), Mr. Okio (Congo), Vice-Chairman, took the Chair.

The meeting was called to order at 11.10 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Question of Gibraltar (A/AC.109/2008/8 and A/AC.109/2008/8/Corr.1)

2. **The Chairman** informed the Committee that the delegation of Spain had indicated its wish to participate in the Committee's consideration of the item. In accordance with established practice and if he heard no objection, he would take it that the Committee acceded to that request.

3. **Mr. Yáñez-Barnuevo** (Observer for Spain) said that his Government was committed to carrying out the mandate established by the United Nations in 1964 to bring about the decolonization of Gibraltar through negotiations between Spain and the United Kingdom, taking into account the interests of the people of Gibraltar.

4. The question of Gibraltar involved a sovereignty dispute, in which the Treaty of Utrecht, also recognized by the administering Power, was applicable, as well as a dispute over Gibraltar's geographical boundaries, in which the principle of territorial integrity was also applicable. Although it had been suggested that decolonization and sovereignty disputes were two separate issues, in the case of Gibraltar, they were, in fact, inextricably joined. As had been acknowledged by the authorities of Gibraltar themselves, the sovereignty of the territory must be retained by either the United Kingdom or Spain; there was no other option.

5. Spain remained committed to the Trilateral Forum for Dialogue on Gibraltar, the sole objective of which was to resolve local cooperation problems that affected the welfare of the population of Gibraltar and the surrounding area. However, the Forum was not intended for discussion of sovereignty issues. In order for the forum to be beneficial, it was crucial that certain parties refrain from insisting on slanted interpretations of United Nations doctrine and employing innovative procedures to attempt to end the decolonization of Gibraltar. In that connection, the Gibraltar Constitution Order could not be recognized by the United Nations as the final resolution of Gibraltar's decolonization process.

6. Spain considered that it was unfair to criticize the Committee for its lack of progress, given that the responsibility for such progress fell on the will and actions of the administering Powers.

Hearing of a representative of a Non-Self-Governing Territory

7. **The Chairperson** said that he had received a communication from the Chief Minister of Gibraltar requesting an opportunity to address the Committee on the question of Gibraltar. He took it that the Committee wished to accede to the request in accordance with its usual procedure.

8. *It was so decided.*

9. **Mr. Caruana** (Chief Minister of Gibraltar) said that under the Charter and doctrine of the United Nations, as well as established principles of international law, decolonization could be brought about only through the application of the principle of self-determination. Furthermore, and despite the statement just made by the representative of Spain, no rule or principle existed which enabled decolonization to be carried out other than by self-determination in the case of a sovereignty dispute.

10. The Special Committee had regrettably allowed arguments to be made that ran counter to United Nations doctrine; that was totally unacceptable. The Committee must be clear on whether its mandate was to promote and defend the sovereignty claim of the territorial claimant, or the rights and aspirations of the people of the listed Territory.

11. According to the reports of various regional seminars on decolonization, certain principles had been adopted; in fact, those principles had never even been raised for discussion. Such views had been inserted into the draft reports at the bidding of interested Member States and their allies on the drafting committee. To make matters worse, the Special Committee had subsequently adopted the reports. The Government of Gibraltar, which did not have access to the drafting committee room, no longer attended the regional seminars.

12. If the Special Committee considered Gibraltar to be pending decolonization, then it must apply the principle of self-determination; if, on the other hand, it considered that Gibraltar was an occupied territory subject to a sovereignty dispute, then it should de-list

Gibraltar, as it had no mandate to deal with such disputes. The principle of territorial integrity was not applicable to the decolonization of a territory on the Committee's list, since such a territory was not part of a State that would be disintegrated by such decolonization.

13. Under the circumstances, the people and Government of Gibraltar no longer looked to the Committee to help bring about the territory's decolonization legitimately. They had been left with no other choice than to claim their own self-determination. Gibraltar had thus recently negotiated a new constitutional relationship with the United Kingdom, which the people of Gibraltar had freely accepted by referendum. The new relationship, which formally acknowledged Gibraltar's right to self-determination, was recognized by the Governments of both the United Kingdom and Gibraltar to be modern and non-colonial in nature. As far as Gibraltar was concerned, therefore, its decolonization was no longer a pending issue.

14. In its letter to the Committee submitting its 2007 annual report on Gibraltar under Article 73 *e* of the Charter, the United Kingdom had made it clear that Gibraltar should not remain on the list of Non-Self-Governing Territories and, furthermore, that it was submitting the report only because it was required to do so as long as Gibraltar remained on the list. The report had, in fact, been prepared by the Government of Gibraltar.

15. The text of the annual consensus resolution was now a fiction, since there was no ongoing negotiating process between the United Kingdom and Spain. As far as Gibraltar was concerned, the only dialogue was the Trilateral Forum for Dialogue between the Governments of Spain, Gibraltar and the United Kingdom. The Government was fully committed to contributing to the Forum, which had an open agenda, thus allowing any and all issues to be raised for discussion.

Hearing of petitioners (aide-memoire 05/08)

16. *At the invitation of the Chairman, Mr. Bossano (Leader of the Opposition, Gibraltar), took a place at the petitioners' table.*

17. **Mr. Bossano** (Leader of the Opposition, Gibraltar) noted that the proposed wording of a statement attributed to the participants at the 2008 Pacific Regional Seminar on decolonization in Bandung, Indonesia, appeared to limit the decolonization process to territories where there was no sovereignty dispute. He trusted that whatever final version of the report the Committee adopted would reflect the alternative wording he had suggested — which had been supported by the representatives of Argentina and Spain — to correct that unacceptable proposition.

18. In its paper presented to the Seminar, the United Kingdom, as the administering Power had provided considerable detail on the political and constitutional development in each of its Territories. It had also maintained that all 10 remaining British overseas Territories enjoyed modern non-colonial relationships with the United Kingdom and should therefore be removed from the United Nations list of Non-Self-Governing Territories. That view was not shared by the Gibraltar Opposition.

19. The only logical purpose for the emphasis, in recent General Assembly resolutions, on the need for administering Powers to provide details of constitutional developments in the Non-Self-Governing Territories was for the Committee to use that information to assess whether the Territory in question was closer to attaining a full measure of self-government and, if so, whether it should be removed from the list of Non-Self-Governing Territories. The Committee should therefore not simply note that it had received information about Gibraltar but should express its view on the relevance of the changes reported to the decolonization question. Unless it played a more proactive role, the Committee's credibility would be further undermined in the eyes of many of the colonial peoples it was charged with defending.

20. Finally, recalling that the United Kingdom had stated that it would not participate in any sovereignty discussions with Spain with which Gibraltar was not content, he said that, as far as Gibraltar's people were concerned, the decision on sovereignty had been settled by the 2002 referendum; that issue was now closed. He further recalled that, earlier that year, King Juan Carlos I, speaking on the occasion of the 200th anniversary of Spain's War of Independence — which had occurred 104 years after the separation of Gibraltar from the Spanish part of the Iberian peninsula — had described that event as the first time the Spanish people had expressed themselves as the real owners of

their national sovereignty. Spain should not seek to deny Gibraltarians the right to the ownership of their national identity and sovereignty, but should acknowledge the inevitability of the situation. Gibraltar would never again be a part of Spain.

21. *Mr. Bossano withdrew.*

The meeting rose at 12.10 p.m.